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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1

Addendum- Implementation of the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict and of the United Nations Fact-Finding Mission on the Gaza Conflict*

Report of the United Nations High Commissioner for Human Rights

Summary

The present report focuses on progress in implementing the recommendations made by the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48), and the independent commission of inquiry on the 2014 Gaza conflict (A/HRC/28/79). It reviews all recommendations made by the fact finding mission and the commission of inquiry, and provides detailed information on non-implementation of the recommendations.

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I. Introduction

1. In its resolution 29/25, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to present at its thirty-first session, as part of the reporting requested by the Human Rights Council in its resolutions S-9/1 and S-12/1, a report on the implementation of the resolution in question and of the recommendations contained in the reports of the independent commission of inquiry on the Gaza conflict 2014 (Commission) (A/HRC/28/79) and of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict (Mission) (A/HRC/12/48).

2. The present report reflects information which OHCHR requested and received from States, organizations and other entities to which the Mission and the Commission addressed recommendations, as well as information gathered by the United Nations. The report should be read in conjunction with previous reports of the High Commissioner for Human Rights and the Secretary-General on the implementation of the Mission's recommendations, including A/HRC/13/55, A/HRC/15/51, A/HRC/15/52, A/HRC/18/49, A/HRC/21/33, A/HRC/22/35 and A/64/890. Some of the issues raised by the Mission and the Commission have been reported in more recent United Nations reports including A/HRC/28/45, A/HRC/28/80, A/HRC/28/80.Add1, A/70/354-S/2015/677, A/70/133, A/70/406, A/70/421, S/2015/286 and A/70/392. The report should also be read in conjunction with relevant reports presented at the thirty-first session of the Human Rights Council, including A/HRC/31/44 and A/HRC/31/40.

II. Progress in the implementation of the recommendations of the United Nations Fact-Finding Mission on the 2009 Gaza Conflict and the independent commission of inquiry on the 2014 Gaza conflict

3. On 12 October 2015, OHCHR sent a note verbale to all Permanent Missions of the United Nations in Geneva seeking inputs to the report. It also sent notes verbales to the International Committee of the Red Cross (ICRC), the United Nations Country Team in the Occupied Palestinian Territory (UNCT), the United Nations Environment Programme (UNEP), the United Nations Special Coordinator Office for the Middle East Peace Process (UNSCO), and the United Nations Relief Works Agency for Palestinian Refugees in the Near East (UNRWA). Inputs were also sought from civil society organisations. OHCHR received inputs from UNCT, UNEP, UNRWA, the State of Palestine and some Palestinian and Israeli civil society organizations. No response was received from the Government of Israel.

4. The High Commissioner highlights that recommendations 1968 (c), 1970, 1972 (h) and 1973 (b) of the Mission's report have either been fully implemented, as reflected in A/HRC/21/33, has no further updates or are not relevant anymore.

A. Human Rights Council

5. Paragraph 1968 (a) of the Mission's report (A/HRC/12/48) recommended that the Council endorse its recommendations, take appropriate action to implement them, and continue to review their implementation. In paragraph 3 of resolution S-12/1, the Human Rights Council endorsed the Mission's recommendations and called upon all concerned parties, including United Nations bodies, to ensure their implementation in accordance with

their respective mandates. This call was reiterated in resolutions 13/9, 15/6, 16/32, 19/18, 22/25[1] and 25/30.

6. Through resolution 13/9, the Human Rights Council established a committee of independent experts in international humanitarian and human rights laws to monitor and assess domestic legal or other proceedings undertaken by the Government of Israel and the Palestinian side. The assessment was to take into account the independence, effectiveness and genuineness of domestic investigations and proceedings, and their conformity with international standards. The experts presented their reports (A/HRC/15/50 and A/HRC/16/24) to the Human Rights Council, which called for the implementation of their conclusions in resolution 16/32. In its resolution 15/6, the Council welcomed that report and renewed and resumed the mandate of the committee. The committee presented its second report to the Council at its sixteenth session (A/HRC/19/24). In its resolution 16/32, the Council took note of the two reports submitted by the committee and called for the implementation of its conclusions.

7. Paragraph 1968 (b) of the Mission's report (A/HRC/12/48) recommended that, in view of the gravity of the violations of international human rights and international humanitarian law and possible war crimes and crimes against humanity that it had reported, the Human Rights Council request the Secretary-General to bring the report to the attention of the Security Council under Article 99 of the Charter of the United Nations for the Security Council to consider possible action, according to the Mission's relevant recommendations. At the time of drafting this report, the Human Rights Council had not addressed any request to the Secretary-General to bring the Mission's report to the attention of the Security Council under Article 99 of the Charter.

8. In line with the Mission's recommendation that the Human Rights Council submit the Mission's report to the General Assembly with a request that it should be considered (A/HRC/12/48, paragraph 1968 (d)), as mentioned in the report of the Secretary-General (A/HRC/18/49, paragraph 10) the Council recommended that the General Assembly consider the Mission's report and implement actions referred to in resolution S-12/1 B, 15/6 and 16/32.[2] In resolutions 19/18, 22/25, 25/30 and 29/25, the Council reiterated its recommendation that the General Assembly remain appraised of the matter. The High Commissioner notes that the Council remains seized of the matter.

9. Paragraph 1968 (c) of the Mission's report (A/HRC/12/48) recommended that the Council should bring its recommendations to the attention of relevant human rights treaty bodies for them to include, when possible, review of progress in their implementation in accordance with their mandate and procedures. The Mission also called upon the Council to review such progress in the context of the Universal Periodic Review (UPR). As stated in the Secretary-General's report (A/HRC/13/55 para. 14), on 10 December 2009, the Mission's report was transmitted to relevant United Nations treaty bodies. In addition, the recommendations made by states participating in the interactive dialogue during the review of Israel in the Working Group on the Universal Periodic Review in 2013 (A/HRC/25/15) substantively overlap with the recommendations of the Mission's report. Finally, the

[1] In this resolution, the Human Rights Council did not renew its call to continue specific reporting on the implementation of the recommendations of the Mission. In paragraph 1, it reiterated its recommendation that the General Assembly remain appraised with the matter until satisfied that the recommendations of the Mission's report were implemented.

[2] In paragraph 8 of resolution 16/32, the Human Rights Council recommended that the General Assembly should submit the report to the Security Council for its consideration and appropriate action, including consideration of referral of the situation in the Occupied Palestinian Territory to the Prosecutor of the International Criminal Court.

information compiled by OHCHR for the second cycle of Israel's UPR referred to the Mission's report (A/HRC/WG.6/15/ISR/2).

10. Following the presentation of the report of the Commission of Inquiry on Gaza (A/HRC/29/CRP.4), the Council passed resolution 29/25, recalling the report of the Fact-Finding Mission on the Gaza conflict of 2009, and recommending that the General Assembly remain apprised of the matter until it is satisfied that appropriate implementation of the Mission's recommendations had been undertaken at the domestic and international levels.

11. With regard to the Commission's recommendation that the Council ask for a comprehensive review of the implementation of the numerous recommendations addressed to the parties by its own mechanisms, in particular relevant commissions of inquiry and fact-finding missions, and explore mechanisms to ensure their implementation (A/HRC/29/CRP.4 para 685), the High Commissioner notes that this has only been partly implemented. Instead, the Council requested OHCHR to present a report on the implementation of resolution 29/25 and of the recommendations of the Mission and the Commission.

B. Security Council

12. Paragraph 1969 (a) of the Mission's report (A/HRC/12/48) recommended that the Security Council require the Government of Israel, under Article 40 of the Charter, (i) to take all appropriate steps, within a period of three months, to launch appropriate investigations that are independent and in conformity with international standards, into the serious violations of international humanitarian and international human rights law reported by the Mission and any other serious allegations that might come to its attention; and (ii) to inform the Security Council, within a further period of three months, of actions taken, or in process of being taken, by the Government to inquire into, investigate and prosecute such serious violations.

13. To date, the Security Council has not required that the Government take all appropriate steps to launch appropriate investigations into the serious violations of international humanitarian and international human rights law reported by the Mission. The Security Council has not established a committee such as that detailed by the Mission (see A/HRC/12/48, para. 1969, subparas. (b) – (e)).

C. General Assembly

14. Paragraph 1971 (a) of the Mission's report (A/HRC/12/48) recommended that the General Assembly request the Security Council to report to it on measures taken to ensure accountability for serious violations of international humanitarian and international human rights law in relation to the facts in its report and any other relevant facts in the context of the military operations in Gaza, including the implementation of the recommendations. To date, the General Assembly has not made such request to the Security Council. With regard to the adequate and effective implementation of the recommendation, the High Commissioner refers to paragraph 12.

15. The General Assembly has not established an escrow fund as recommended by the Mission (A/HRC/12/48, paragraph 1971 (b)) to pay adequate compensation to Palestinians who have suffered loss and damage as a result of unlawful acts attributable to Israel during

the December 2008 – January 2009 military operation and related actions.[3] As the right of victims to reparations, including compensation, is crucial to achieve justice and build peace, the High Commissioner recalls the importance of reparations and refers to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

16. Paragraph 1971 (c) of the Mission's report (A/HRC/12/48) recommended that the General Assembly request the Government of Switzerland to convene a conference of the High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory and to ensure its respect in accordance with its article 1. The steps taken by the Assembly, and subsequently by Switzerland, to implement the recommendation were outlined in a previous progress report of the Secretary-General (A/HRC/21/33 para. 13). As noted by the Secretary-General (A/70/133, paragraph 25), on 22 July 2014, the Government of Switzerland notified the High Contracting Parties that consultations for a conference would resume. Between 28 July and 3 December 2014, a cross-regional critical mass of High Contracting Parties requested the reconvening of a Conference, which was held in Geneva on 17 December 2014, gathering 128 representatives of High Contracting Parties. The conference was concluded with the adoption by consensus of a ten-point-declaration.[4]

17. Paragraph 1971 (d) of the Mission's report A/HRC/12/48 recommends that the General Assembly promote an urgent discussion on the legality of the use of certain munitions referred to in its report, particularly white phosphorous, flechettes and heavy metal, such as tungsten, and that in such a discussion, the Assembly should draw on, *inter alia*, the expertise of the International Committee of the Red Cross (ICRC). The High Commissioner notes that the issue is currently included in the mandate of the First Committee of the General Assembly related to the "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects", and that this discussion is ongoing.

18. The recommendation also called on the Government of Israel to undertake a moratorium on the use of such weapons in the light of the human suffering and damage they had caused in the Gaza Strip. The Government of Israel has not adopted a moratorium on the use of the weapons listed by the Mission. However, in a report entitled "State of Israel, Gaza Operation Investigations: Second Update", which it published in July 2010, the Government of Israel announced that its policies related to the use of white phosphorous had been reviewed[5].

D. Government of Israel

19. Paragraph 1972 (a) of the Mission's report (A/HRC/12/48) recommended that Israeli authorities should immediately cease the border closures and restrictions on passage through border crossings with the Gaza Strip and allow the passage of goods necessary and sufficient to meet the needs of the population, for the recovery and reconstruction of housing and essential services, and the resumption of meaningful economic activity in the Gaza Strip. The High Commissioner reports that the Government of Israel has continued to impose the blockade of Gaza, preventing the full recovery and enjoyment of human rights,

[3] See A/HRC/21/33 para. 12 for more information

[4] Conference of the High Contracting Parties, Declaration, 17 December 2014

[5] Para to be read in conjunction with section D

including economic, social and cultural rights of Palestinians in Gaza. The Commission also called for the lift of the blockade on Gaza (paragraph 681 (d) of its report), "immediately and unconditionally".

20. The High Commissioner notes some improvement regarding movement of Palestinians in and out of Gaza, although the criteria for exit from Gaza through Erez remain very narrow and restricted to specific categories. The monthly average of crossings through Erez Crossing in 2015 doubled compared to 2014.[6] On 16 February 2015, Israel increased the quotas for permits to exit through Erez for patients requiring medical treatment in Israel - but not deemed a medical emergency - from 80 to 120 per day, and for traders from 400 to 800 per day (A/70/421, para 25). According to data published by OCHA, the weekly average of truckloads in and out of Gaza in 2015 increased compared to 2014[7]. However these numbers are still substantially lower than those registered prior to the imposition of the blockade.[8] The High Commissioner notes that the restrictions placed on entry and exit of people and goods have been eased and strengthened over time, depending on the situation.

21. According to UNRWA, on 11 October 2015, the Israeli Coordination of Government Activities in the Territories unit (COGAT) implemented the decision to remove, for the first time since the imposition of the blockade, aggregate, such as sand, gravel, crushed stone and crushed slag, from the "dual use" list of item banned from entry into Gaza.[9] The Gaza Reconstruction Mechanism[10] (GRM) has increased entry of construction material, but the pace of reconstruction remains inadequate (A/70/421, para 20). The reconstruction of the first totally destroyed home funded by UNRWA was completed in October 2015.[11] Progress in repairing damaged homes has been more significant, including the completion of nearly 12 per cent of severely damaged homes, allowing an estimated 5,000 displaced people to return home.[12] However, approximately 95,000 people whose homes were destroyed or severely damaged are still currently accommodated with host families, in rented apartments, prefabricated units, tents and makeshift shelters, or in the rubble of their previous homes.[13] Concerns regarding the lack of reconstruction and recovery in Gaza should be read against the backdrop of the findings of UNCTAD, which found that the military operations of summer 2014 resulted in the grave destruction of essential civilian infrastructure including of water and sewage network. This situation coupled with the high population density and overcrowding are among the factors led UNCTAD to conclude that Gaza will be unliveable by 2020.[14]

22. The High Commissioner notes that Israel, notwithstanding the above-mentioned positive steps, has yet to implement fully the recommendations of the Mission and the Commission. The most adequate and effective way to implement the recommendation would be to lift the blockade, in compliance with Security Council resolution 1860 (2009),

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[6] UN Country Team inputs to OHCHR.

[7] See OCHA's Gaza Crossing Activities Database.

[8] UN OCHA, Protection of Civilians, 3-9 November 2015.

[9] UNRWA, Gaza Situation Report 115, 22 October 2015.

[10] A temporary agreement between the Government of Palestine and the Government of Israel brokered by the United Nations in September 2014 and launched on 20 October 2014, represents an attempt to ease the crisis and to begin reconstruction.

[11] UNRWA, After 70 Days, I Held The New Keys In My Hands, 21 October 2015.

[12] OCHA Humanitarian Bulletin, October 2015, page 5.

[13] OCHA, Humanitarian Bulletin, Monthly Report, October 2015, page 6.

[14] UNCTAD, Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory, TD/B/62/3, 6 July 2015, paragraph 29.

and prioritize the unrestricted import of key building materials, particularly aggregate, iron bars and cement.

23. Paragraph 1972 (b) of the report (A/HRC/12/48) recommended that Israel cease the restrictions on access to the sea for fishing purposes imposed on the Gaza Strip, and allow such fishing activities within the 20 nautical miles – as provided for in the Oslo Accords – as well as the resumption of agricultural activity within the Gaza Strip, including within areas in the vicinity of the borders with Israel.

24. The High Commissioner notes that such restrictions continue to be imposed. As part of the ceasefire agreement of August 2014, Israel purportedly accepted to expand the fishing area from the previously existing limit of 3 NM to 6 NM from the shore in Gaza.[15] However, according to the Palestinian Centre for Human Rights, in 2015, at least 111 shooting incidents and at least 40 arrests by Israeli naval forces took place against Palestinian fishing boats some of which occurred within the 3 NM limit.[16] According to OCHA, farmers continue to indicate a high perceived risk from undertaking agricultural activities within several hundred metres of the fence separating Gaza and Israel since the hostilities in 2014. In 2015, Al Mezan documented 82 incidents in the access-restricted area along the border with Israel that resulted in the killing of one child and injury of 31 people, including nine children.[17] OHCHR is concerned by means used by Israel to enforce the access-restricted areas at sea and on land in Gaza, which raise serious concerns with regard to its obligations under international human rights and international humanitarian law (see GA/70/421 para 33-38). The High Commissioner notes that Israel has yet to implement fully the Mission's recommendations, and underscores that Israel should fulfil its commitments pursuant to the Oslo Accords and allow unimpeded resumption of fishing and agricultural activity inside the Gaza Strip, abiding with its international legal obligations and with due regard for its legitimate security concerns.

25. Paragraph 1972 (d) of the Mission's report (A/HRC/12/48) recommended that Israel should allow freedom of movement of Palestinians within the Occupied Palestinian Territory – within the West Bank, including East Jerusalem, between the Gaza Strip and the West Bank, and between the Occupied Palestinian Territory and the outside world – in accordance with international human rights standards and international commitments of Israel and the representatives of the Palestinian people. The Mission also recommended that Israel should forthwith lift travel bans placed on Palestinians by reason of their human rights or political activities.

26. According to the non-governmental organization (NGO) B'Tselem, in April 2015, there were 96 Israeli permanent checkpoints in the West Bank over 60 km of roads forbidden to Palestinian use.[18] On 14 October 2015, following a series of attacks and clashes, the Israeli authorities imposed further movement restrictions on neighbourhoods within East Jerusalem. According to OCHA, as of 5 November 2015, 30 new obstacles to freedom of movement were put in place in East Jerusalem alone.[19] This is in retraction of steps taken earlier in 2015 whereby Israel eased movement in the West Bank, including by allowing entry into Israel of Palestinian men over 55 and women over 50.[20] However, by

[15] Gisha, The Gaza Cheat Sheet, last update 18 October 2015.

[16] Palestinian Centre for Human Rights, Israeli Attacks on Fishermen in the Gaza Sea, 8 October 2015.

[17] Al Mezan, Press Release Al Mezan Condemns Israeli Killings and Injury of Palestinian Children in Gaza's Access Restricted Areas, 07 September 2015.

[18] B'Tselem, Checkpoints, Physical Obstructions, and Forbidden Roads, 20 May 2015.

[19] OCHA, New Movement Restrictions in East Jerusalem, 05 November 2015.

[20] Secretary-General, Report Peaceful Settlement of the question of Palestine. A/70/354-S/2015/677, 1 September 2015, paragraph 36.

early December 2015, almost all these barriers were removed. With regard to movement between the West Bank and the Gaza Strip see para 20 to 24.[21]

27. Paragraph 1972 (c) of the Mission's report A/HRC/12/48 recommended that Israel should initiate a review of the rules of engagement, standard operating procedures, open fire regulations and other guidance for military and security personnel with the assistance of the expertise of ICRC, OHCHR and other relevant bodies, and Israeli experts, civil society organizations with the relevant expertise, in order to ensure compliance with international humanitarian law and international human rights law.

28. Similarly, the Commission in paragraphs 679 and 680 of its report (A/HRC/29/CRP.4) called upon the Government of Israel to conduct a thorough, transparent, objective and credible review of policies governing military operations and of law enforcement activities in the context of the occupation, as defined by political and military decision-makers, to ensure compliance with international humanitarian law and international human rights law, specifically with regard to: (a) the use of explosive weapons with wide-area effects in densely populated areas, including in the vicinity of specifically protected objects; (b) the definition of military objectives; (c) the tactics of targeting residential buildings; (d) the effectiveness of precautionary measures; (e) the protection of civilians in the context of the application of the Hannibal directive; (f) ensuring that the principle of distinction is respected when active neighbourhoods are declared "sterile combat zones"; (g) the use of live ammunition in crowd control situations. The Commission noted that such review should also examine mechanisms for continuous review of respect for international humanitarian law and international human rights law during military operations and in the course of law enforcement activities in the context of the occupation.

29. Certain actions taken by the Government Israel to implement the recommendations of the Mission have been described in the report of the Committee of Independent Experts (A/HRC/15/50, paragraph 42). In adopting such actions, the Government of Israel has not sought, as suggested by the Mission, the technical assistance of OHCHR.[22] The High Commissioner encourages the Government of Israel to avail itself of the expertise of ICRC, OHCHR and other relevant bodies so that it fully complies with international humanitarian law and international human rights law.

30. In September 2014, in response to the Turkel Commission's recommendations[23], the Israel Defense Forces Chief of Staff ordered that a General Staff Mechanism for Fact-Finding Assessments should examine "exceptional incidents" that occurred during the 2014 hostilities.[24]

31. In May 2015, separately, the Government of Israel released a report entitled "The 2014 Gaza Conflict (7 July – 26 August 2014): Factual and Legal Aspects"[25], affirming that

[21] See also A/HRC/28/27 paragraph 7; A/70/392 paragraph 87 (a) and A/70/406, paragraph 88 (d).

[22] ICRC reports that confidential dialogue with the Israeli and Palestinian authorities on their obligations under IHL and other applicable norms are held. https://www.icrc.org/eng/assets/files/annual-report/current/icrc-annual-report-israel.pdf

[23] The Turkel Commission, established to investigate the May 2010 Gaza flotilla raid, was mandated to review Israel's mechanisms for investigating alleged violations of the laws of armed conflict, and made specific recommendations to strengthen those mechanisms.

[24] IDF MAG Corps, "Operation Protective Edge: Examinations and Investigation", 10 September 2014. See para 38 for more information on Turkel Commission.

[25] The report is a joint product of the Ministry of Justice, the Ministry Foreign Affairs, the Israeli Army's Judge Advocate General and other state bodies including the National Security Council.

its armed forces "employed a multi-faceted system of advanced warning, employed additional precautions" to avoid civilian casualties.[26] The report mentioned that the Military Advocate General (MAG), while examining the information collected by the General Staff "mechanism for fact-finding assessments" on the "exceptional incidents" that occurred during the 2014 offensive, could make recommendations to review and improve operational procedures.[27]

32. The investigations carried out by the Mechanism and reviewed by MAG are steps towards establishing accountability for alleged victims in Gaza. However, the High Commissioner has noted the limited scope of the "mechanism for fact-finding assessments" to "exceptional incidents", and the conflict of interest stemming from the dual role of the MAG office, in advising the military on planning and conducting military operations and investigating allegations of misconduct by Israeli soldiers.[28] He notes that international law requires investigations into alleged human rights violations to be carried out by authorities that are separate and in a separate chain of command than those involved in the original operations.

33. At the time of drafting of this report, no information was available on reviews of rules of engagement and operational policies stemming from MAG investigations into the 2014 incidents in Gaza or on the initiatives undertaken by MAG to regulate the use of live ammunition in law enforcement operations, as recommended by the Commission.

34. While the Israeli military's own regulations establish that live ammunition must be used "only under circumstances of real mortal danger", in September 2015 the Israeli Security Cabinet approved the decision that the police are allowed to use of lethal force "when they face danger to any lives"[29], effectively loosening the rules of engagement for the law enforcement forces. A statement released by the Security-Cabinet said that 'Until recently police would open fire only when their own lives were in danger. As of now, they will be permitted to open fire – and they will know that they have the right to open fire – when they face danger to any lives.'[30] Cases have been documented in which live fire was used by ISF against Palestinians when the lives of members of the Israeli security forces did not appear to be under threat, for instance in the enforcement of the access-restricted areas in Gaza (A/70/421, para. 32).[31]

35. The Commission, in paragraph 681 (a) of its report (A/HRC/29/CRP.4), called upon the Government of Israel to ensure that investigations comply with international human rights standards and that allegations of international crimes, where substantiated, lead to indictments, prosecutions and convictions, with sentences commensurate to the crime. It

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http://mfa.gov.il/MFA/PressRoom/2015/Pages/Cabinet-Secretary-Mandelblit-presents-PM-Netanyahu-with-Israel's-Position-on-Operation-Protective-Edge-14-Jun-2015.aspx

[26] Government of Israel, The 2014 Gaza Conflict (7 July – 26 August 2014): Factual and Legal Aspects, May 2015, http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf The report was published by the MAG corps

[27] Military Advocate General's Corps, Protective Edge, available from http://www.law.idf.il/1007-en/Patzar.aspx

[28] See A/70/36136, para 52-58

[29] Government of Israel, Security Cabinet Statement, 24 September 2015, available from http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx.

[30] See http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx

[31] See also, Human Rights Watch, Human Rights Watch Investigator Shot, 11 October 2015, available from https://www.hrw.org/news/2015/10/11/israel/palestine-human-rights-watch-investigator-shot; and B'Tselem, Military steps up use of live 0.22 inch bullets against Palestinian stone-throwers, 18 January 2015, available from http://www.btselem.org/press_releases/20150118_use_of_live_ammunition_in_wb

urged the authorities to take all measures necessary to ensure that such investigations are not confined to individual soldiers, but also encompass members of the political and military establishment, including at the senior level, where appropriate.

36. In June 2010, the Government of Israel established the Turkel Commission, which was also mandated to assess the compliance of Israeli investigations with international legal standards[32]. In its report issued in February 2013, the Turkel Commission, among others, suggested the adoption of institutional changes and the appointment of an independent implementation team in charge of monitoring the operationalization of its recommendations. In January 2014, the Government of Israel established the Ciechanover Commission to review and implement the recommendations of the Turkel report. According to the Ministry of Foreign Affairs, several recommendations of the Turkel Commission, as reiterated in the final findings of the Ciechanover Commission, were in course of implementation as of September 2015.[33] As mentioned above, the "mechanism for fact-finding assessment", established by the Chief of Staff in September 2014, is one of the measures adopted in response to the recommendations of the Turkel Commission (para 32-34).

37. In Paragraph 681 (b) of its report (A/HRC/29/CRP.4) the Commission recommended that the Government of Israel implement all the recommendations contained in the second Turkel report, which dealt with the assessment of the compliance of Israeli investigations with international legal standards, particularly recommendation 2, calling for the enactment of provisions that impose direct criminal liability on military commanders and civilian superiors for offenses committed by their subordinates, in line with the doctrine of command responsibility. The High Commissioner notes that no legislation has been adopted to that end. The Ciechanover Commission[34] did not issue instructions for the full implementation of the first two recommendations of the Turkel Commission with respect to legislation incorporating international norms and standards into domestic law, including regarding war crimes, and imposing responsibility on military commanders and civilian superiors for offenses committed by their subordinates.[35]

38. According to Al Mezan, as of July 2015, jointly with the Palestinian Centre for Human Rights, 354 criminal complaints were submitted to MAG and the mechanism for fact-finding assessment. As of 15 November 2015, the two organizations had not received any communication regarding criminal indictments.[36] MAG has not published any updates regarding the status of investigations since 11 June 2015. The latest updates stated that MAG had independently opened 15 criminal investigations and other seven out of the 190 exceptional incidents compiled by MAG and submitted to the mechanism for fact-finding

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[32] Turkel Commission was established in the context of another incident, not directly in response to the Mission's recommendation, however, that its recommendations addressed issues covered by the Mission's recommendations.

[33] Israeli Ministry of Foreign Affairs, PM Netanyahu receives second report of Turkel Commission, 21 September 2015, available from http://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-receives-second-report-of-Turkel-Commission-21-Sep-2015.aspx

[34] Yesh Din, The Ciechanover Report – dodging the criminalization of war crimes and practical steps towards implementation, 1 October 2015, http://www.yesh-din.org/userfiles/Ciechanover%20Eng.pdf

[35] Supra 31, paragraph 23. [Report of the Team for the Review and Implementation of the Second Report of the Public Commission for the Examination of the Maritime Incident of May 31st 2010 Regarding Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Law of Armed Conflict According to International Law, August 2015, available from http://www.pmo.gov.il/Documents/ReportEng.pdf.]

[36] Al Mezan, Israel's investigations on criminal complaints submitted by Palestinian NGOs in Gaza on behalf of victims of attacks on Gaza in July and August 2014, Briefing Update 15 November 2015, available from http://mezan.org/en/uploads/upload_center/kiWkMhPrYIZx.pdf

assessment. As detailed in the Secretary-General report (A/70/421, paragraph 53), these investigations have resulted only in one criminal indictment issued for a case of looting. According to NGO Adalah, as of 15 November 2015, they had received no response from MAG regarding criminal indictments for any of the 22 cases they had submitted for independent criminal investigation. Similarly, no progress was recorded with regard to the 1,248 civil complaints submitted by Al Mezan and the Palestinian Centre for Human Rights to Compensation Officer at the Ministry of Defence.[37] During 2014, the Military Police Criminal Investigations Division opened 229 investigations of alleged criminal offenses committed by soldiers against Palestinians in the West Bank and the Gaza Strip, which resulted in only eight (3.5 per cent) indictments.[38]

39. In light of this information, the High Commissioner reiterates serious concerns regarding the lack of accountability related to past cycles of violence and escalation in Gaza and to incidents in the West Bank, including East Jerusalem, and in the access-restricted areas of the Gaza Strip (see A/68/502, paras. 30-34, A/69/347, paras. 52-69, A/HRC/25/40, paras. 50-56 and A/70/36136), paras 60).

40. Paragraph 1972 (e) of the Mission's report (A/HRC/12/48) recommended that Israel release Palestinians detained in Israeli prisons in connection with the occupation; release children as an utmost priority; cease the discriminatory treatment of Palestinian detainees; allow the resumption of family visits for prisoners from Gaza.

41. By the end of October 2015, 5,683 Palestinians were in Israeli prisons and detention centres, including 429 administrative detainees.[39] According to the NGO Palestinian Prisoners Club, in October 2015 alone, 1,500 Palestinians were arrested in the West Bank, including East Jerusalem. As of December 2015, 470 Palestinian children were held in Israeli prisons and detention centres.[40] The High Commissioner notes a number of concerns in relation to the arrest and detention of children, which include cases of night-time arrest; handcuffing; blindfolding; strip-searching; physical and verbal abuse; denial of access to a lawyer or to parents; solitary confinement and the fact that many children are forced to sign confession documents in Hebrew, a language they do not understand (A/HRC/27/78, paragraph 55).

42. Some legislative measures undertaken by the Government of Israel which contradict the Mission's recommendations are also concerning. For instance, on 30 July 2015, the Parliament adopted a law allowing for the force-feeding of prisoners and detainees on hunger strike (A/70/392, paragraph 70), which may amount to cruel, inhuman and degrading treatment.[41] The amendment to the Israeli Penal Code, introduced on 20 July 2015, that increases the maximum sentence for individuals convicted of throwing stones or other objects at vehicles from 10 years to 20 years if the intent to harm the occupants of the vehicle is proven, and up to 10 years when intent to harm the occupants of the vehicle cannot be established, is of deep concern, and punishments prescribed appear excessive or disproportionate to many instances of throwing stones. Of further concern is the approval,

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[37] Ibid.

[38] Yesh Din, Law Enforcement on IDF Soldiers Suspected of Harming Palestinians, December 2015, available from http://www.yesh-din.org/userfiles/file/datasheets/Law%20enforcment_IDF_Decmber%202015_English.pdf

[39] Addameer, Statistics, available from http://www.addameer.org/statistics

[40] Addameer, Special Edition Monthly Newsletter: Events of October 2015, available from http://www.addameer.org/sites/default/files/publications/october_2015_newsletter.pdf

[41] UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention, 28 July 2015, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269&LangID=E#sthash.HQlqUlpH.dpuf

in November 2015, of a bill which, if passed by Knesset, would allow sentences to be imposed on Palestinian children as young as 12.[42] Furthermore, despite the issuance in late 2014 of new regulations on the exit from Gaza for certain Palestinians,[43] including family members of prisoners held in Israeli prisons, the right to family visits remained severely restricted (A/HRC/28/80, para. 37).

43. Paragraph 1972 (f) of the Mission's report (A/HRC/12/48) recommended that Israel should forthwith cease interference with national political processes in the Occupied Palestinian Territory and, as a first step, release all members of the Palestinian Legislative Council in detention, and allow all members of the Council to move between Gaza and the West Bank so that it may resume functioning. This recommendation remains to be implemented. Between early June and mid-August 2014, at the height of the military offensive against Gaza, 27 members of the Palestinian Legislative Council were arrested (See A/HRC/28/80/Add.1, paragraph 14). At the end of October 2015, five Palestinian legislators were still detained in Israeli prisons.[44]Although movement of Council Members is restricted between the West Bank and Gaza, in some instances members of the Council have travelled into Gaza, for instance the recent visit of the Prime Minister of the Palestinian Authority[45].

44. The High Commissioner also notes that for the first quarter of 2015, in retaliation for the Palestinian accession to the International Criminal Court, Israel withheld Palestinian tax revenues,[46] which compounded already difficult economic conditions for Palestinian public employees caused by inter-factional divisions between Fatah and Hamas.[47] The action by Israel has been detrimental to delivery of public services and internal political stability.

45. Paragraph 1972 (g) of the Mission's report (A/HRC/12/48) recommended that the Government of Israel cease actions aimed at limiting the expression of criticism by civil society and members of the public concerning its policies and conduct during the military operations in the Gaza Strip, and that it set up an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in connection with the offensive was discriminatory. The Israeli authorities have not taken any steps to establish such independent inquiry.

46. Since 2009, the Government of Israel has proposed legislative measures to restrict the space for organisations to advocate against illegal policies and laws. In some instances, the Knesset has adopted such measures. In 2011, the Knesset passed the Prevention of Damage to the State of Israel through Boycott Law[48], which allows civil claims for

[42] International Center for Transitional Justice, Israel draft law allows jail for Palestinians aged 12, 22 November 2015, available from https://www.ictj.org/news/israel-draft-law-allows-jail-palestinians-aged-12; Children below the age of 14 would serve first part of the sentence in youth centers before being sent to prison at age 14.

[43] Gisha, One step at a time: Israel revises criteria for exiting Gaza, 26 October 2014, available from http://gisha.org/updates/3614.

[44] Addameer, Special Edition Monthly Newsletter: Events of October 2015, and ICHR, Annual Report 2014, page 15

[45] See Palestinian PM Hamadallah in gaza for Talks to resolve Rift with Hamas, 25 March 2015, Haaretz.

[46] Humanitarian Bulletin Monthly REPORT, January 2015.

[47] Mohammed Omer, Protesters lock ministers in building as Gaza salaries remain unpaid, Middle East Eye, 14 January 2015; see also Michael Schaeffer Omer-Man, Sending the Palestinians to bed without dinner, +972 Magazine, 21 April 2015, and OCHA, Humanitarian Bulletin, Monthly Report January 2015.

[48] A/HRC/20/17/Add.2, paragraph 32.

damages to call for a boycott against Israel and its products and those produced in the settlements in the West Bank. Parties filing lawsuits do not have to prove that a call to boycott has resulted in actual damages, as courts can order people or organizations calling for a boycott to pay compensation independently of the damages caused. In addition, the law allows the Minister of Finance to revoke the tax-exempt status of NGOs calling for a boycott. Furthermore, companies or organizations participating in a boycott may also be disqualified from applying for Government contracts. Another example of restrictive legislative measure is the "Foreign Government Funding Law" - Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity.[49] The law imposes discriminatory invasive reporting requirements on NGOs, requiring them to submit and publish quarterly reports on any funding received from foreign governments or publicly-funded foreign donors, but excludes Jewish and Zionist organisations.[50] In December 2015, the Israeli Government proposed an amendment to this legislation adding further restrictions on organizations receiving foreign funding, including having to wear special tags when addressing the parliament. However, after strong criticism from civil society organizations in Israel and European policy makers, this requirement was abandoned. The bill now includes excessive reporting obligations, raising concerns that the real motivation if to delegitimize and silence NGOs.[51]

47. Four other draft bills, which were not approved, not further promoted or were frozen at different stages of adoption, could have restricted the space for civil society: The Universal Jurisdiction Bill; the Bill on Income of Public Institutions Receiving Donations from Foreign State Entity (Legislative Amendments); the Bill on Preserving the Values of the State of Israel (NGO Loyalty to a Jewish and Democratic State Bill); and the Bill on Exceptions to the Registration of an Association. Many Israeli organizations have denounced the Government's support to such measures.[52] The High Commissioner reiterates concerns expressed by a group of Special Rapporteurs about continued reports of human rights defenders being subjected to physical attacks, harassment, arrest and detention, and death threats, particularly in Hebron in the Occupied Palestinian Territory.[53]

48. Paragraph 1972 (i) of the Mission's report (A/HRC/12/48) called on the Israeli authorities to reiterate their commitment to respecting the inviolability of United Nations premises and personnel and to take all appropriate measures to ensure that violations are not repeated. It further recommends that reparation to the United Nations should be provided fully and without further delay by Israel, and that the General Assembly should consider this matter. The United Nations has still not received any communication from the Government of Israel reiterating such a commitment, however, Israel is a signatory to the 1946 Convention on Privileges and Immunities of the United, Nations, and as such is bound to respect the inviolability of United Nations premises and personnel. Information on reparations was included in the first progress report of the Secretary-General on the status of implementation of the Mission's recommendations (A/HRC/13/55, para.49-53).[54] The

[49] Adalah, "Foreign Government Funding Law" - Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, available from http://www.adalah.org/en/law/view/497.

[50] Ibid.

[51] European Lawmakers Urge Netanyahu to Rethink 'Transparency Bill', Haaretz, Wednesday, 17February 2016

[52] Association for Civil Rights in Israel. What kind of democracy is this?, 20 December 2015; Ha'aretz, Be'er Sheva Court Bars Talk by Left-wing NGO Breaking The Silence, 24 November 2015.

[53] Stop unacceptable harassment of human rights defenders in Occupied Palestinian Territory – UN experts, 18 December 2015.

[54] Also see: A/HRC/21733 para 23

High Commissioner is concerned that in 2014, during the escalations in Gaza, UN premises were again affected due to violations by Israel.

49. On 10 November 2014, the Secretary-General set up a Board of Inquiry involving United Nations premises[55] during the 2014 escalation in Gaza to review and investigate specific incidents in which death or injuries occurred at, and/or damage was done to United Nations premises. On 27 April 2015, he released a summary of the Board of Inquiry's confidential report (S/2015/286), which indicated Israel's responsibility in six out of the 10 incidents investigated.[56] The Government of Israel continued to engage closely with the United Nations' follow-up to the Board of Inquiry's recommendations. They investigated some of the incidents and have engaged with the United Nations on the ground with a view to improving systems of coordination and communication during hostilities.

50. Paragraph 681 (c) of the Commission's report (A/HRC/29/CRP.4) called upon the Government of Israel to grant access to Israel and the Occupied Palestinian Territory for, and to cooperate with, international human rights bodies and NGOs concerned with investigating alleged violations of international law by all duty-bearers and any mechanisms established by the Human Rights Council to follow up on the Commission's report. The Secretary-General stated that Israel's lack of cooperation with the Commission and other United Nations mechanisms remained of serious concern (A/70/421, paragraph 4). However, Israel has cooperated with other United Nations mechanisms such as the treaty body and Universal Periodic Review process. The resignation of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories, in January 2016, highlighted the issue of non-cooperation by Israel with mechanisms established by Human Rights Council.[57] No mechanism has been established by the Human Rights Council as a follow-up to the Commission's report, but requested OHCHR to follow up on the implementation of recommendations of the Commission and Mission.

51. Paragraph 681 (d) of the Commission's report (A/HRC/29/CRP.4) called on the Government of Israel to address structural issues that fuel the conflict and have a negative impact on a wide range of human rights, including the right to self-determination, in particular: To lift, immediately and unconditionally, the blockade on Gaza; to cease all settlement-related activity, including the transfer of Israel's own population to the occupied territory; and to implement the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

52. The High Commissioner notes that this recommendation has not been implemented. In its latest report on Israeli settlements, the Secretary-General notes that Israeli settlement activities continued and remained at the core of many violations of human rights in the Occupied Palestinian Territory, representing also the most serious obstacle to a viable Palestinian state.[58] The Secretary-General also reported that the construction of the Wall in the West Bank, including East Jerusalem continued and that, despite pending legal proceedings, in August 2015, Israel's Ministry of Defense renewed construction work on

[55] 118 UNRWA installations (83 schools and ten hospitals) were directly or indirectly damaged as a result of the Israeli military operations. In three incidents involving UNRWA schools, at least 44 persons were killed and some 222 injured.

[56] The Board of Inquiry confirmed the presence of weaponry belonging to Palestinian armed groups at vacant United Nations premises in three incidents.

[57] OHCHR, Special Rapporteur on Occupied Palestinian Territory resigns due to continued lack of access to OPT, 4 January 2016.

[58] See A/HRC/31/43, para 65

the Wall near Beit Jala in the West Bank.[59] The status of the blockade is described in paragraph 12 of this report.

53. With regard to the Commission's call, under para 681 (e) of its report (A/HRC/29/CRP.4), upon the Government of Israel to accede to the Rome Statute, the High Commissioner notes that the Government of Israel has not acceded to the Statute of the International Criminal Court. However, on 9 July 2015, the Government of Israel announced that it had decided to open a dialogue with the Office of the Prosecutor over the preliminary examination.[60] This recommendation has not been implemented.

E. The Government of Israel, Palestinian Authorities and the authorities in Gaza

54. Paragraph 676 of the Commission's report called on all duty bearers for the implementation of the recommendations made by previous commission of inquiry, fact finding missions, United Nations treaty bodies, special procedures and other United Nations bodies. In essence this falls outside the scope of the current exercise of providing updates on the status of implementation of recommendations of the Mission and the Commission. However, the High Commissioner notes that commitment and political will of parties to engage in good faith is key in ensuring the implementation of all recommendation of various mechanisms.

55. In paragraph 677 of its report, the Commission called upon all parties to fully respect international humanitarian law and human rights law; to ensure the right of all victims to an effective remedy, including full reparations, without further delay; and to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened. In light of the current status of implementation of the recommendations of the Mission and the Commission as reflected in the report, and against the backdrop of violations of international human rights and international humanitarian law that continues to be committed by all parties, the High Commissioner expresses serious concerns about the lack of implementation of the recommendation. Furthermore, with reference to reparation, the limited progress in investigating alleged violations of international law by all parties and in the absence of establishing an escrow fund for victims, no progress has been made in establishing a reparation mechanism. However, Israel reportedly compensated its own citizens for damages caused directly or indirectly by military operations[61]. The High Commissioner calls on Israel, as the Occupying Power, to extend such compensation to Palestinian victims of Israeli attacks of the conflict as well.

56. With regard to cooperation with the International Criminal Court, the High Commissioner notes that on 16 January 2015, the Prosecutor of the International Criminal Court opened a new preliminary examination into the situation in Palestine.[62] At the time of

[59] See A/HRC/31/42, para 16

[60] Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities (2015), 12 November 2015, paragraph 75, available from https://www.icc-cpi.int/iccdocs/otp/OTP-PE-rep-2015-Eng.pdf

[61] See the Gaza 2014 Gaza Conflict, 7 July-26 August 2014, para 222. These compensations were paid out of the Tax Authority Compensation Fund, founded in accordance with the Israeli law, under which the Minister of Finance has the discretion to compensate civilians for indirect damages.

[62] Report of the International Criminal Court on its activities in 2014/15, A/70/350 of 28 August 2015, paragraph 21

writing, the preliminary examination was in phase two.[63] The State of Palestine has made three submissions to the Prosecutor. On 23 November 2015, four Palestinian organisations delivered a confidential communication to the Prosecutor of the International Criminal Court[64]. The High Commissioner also notes that on 9 July 2015, the Government of Israel announced that it had decided to open a dialogue with the Office over the preliminary examination.[65]

57. In paragraph 678 of its report (A/HRC/29/CRP.4), the Commission called upon Israelis and Palestinians to demonstrate political leadership by refraining from and taking active steps to prevent statements that dehumanize the other side, incite hatred, and only serve to perpetuate a culture of violence. In the last quarter of 2015, in the face of increased friction between Israeli and Palestinians, Israeli NGOs and media reported an alarming climate of incitement to violence against Palestinians and Israeli civil society organizations. According to Israeli organizations, politicians and senior police officers have failed to act to calm the public climate of incitement and openly called for the extrajudicial killing of suspects.[66] The situation has been further aggravated by Israeli policies of punitive house demolitions and of withholding the dead bodies of alleged attackers.[67] On the other hand, according to reports, some Palestinians used social media to praise and encourage attacks against Israeli civilians.[68] The High Commissioner urges all parties to take effective measures to end all forms of incitement, including by proactively reacting to incitement to violence and inflammatory statements.

F. Palestinian armed groups

58. Paragraph 1973 (a) of the Mission's report A/HRC/12/48 recommended that Palestinian armed groups undertake forthwith to respect international humanitarian law, in particular by renouncing attacks on Israeli civilians and civilian objects, and take all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities. A similar recommendation was made by the Commission, in paragraph 683 (a) of its report, urging Palestinian armed groups to respect the principles of distinction, proportionality and precaution, including by ending all attacks on Israeli civilians and civilian objects, and stopping all rocket attacks and other actions that may spread terror among the civilian population in Israel.

59. The High Commissioner notes with concern that rocket and mortar attacks against Israel continued to be launched by Palestinian armed groups from Gaza. According to the

[63] International Criminal Court, Office of the Prosecutor, Report on Preliminary Examination Activities (2015), 12 November 2015

[64] Al-Haq, Palestinian Human Rights Organisations Deliver Submission to the International Criminal Court on Alleged Israeli War Crimes and Crimes against Humanity during 2014 Gaza offensive, 23 November 2015

[65] Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities (2015), 12 November 2015, paragraph 75

[66] B'Tselem, Human Rights Organizations in Israel: Politicians' calls to police and soldiers to shoot rather than arrest endorse the killing of Palestinians, 14 October 2015; see also, Yesh Din, Israeli NGOs: shocked by assault against Rabbi Arik Ascherman and authorities' tolerance of incitement directed against Palestinians and human rights advocates, available from http://www.yesh-din.org/hottopview.asp?postid=35

[67] OHCHR, Press briefing note on Burundi, Israel / Occupied Palestinian Territory, Cuba and High Commissioner speeches, 16 December 2015

[68] New York Times, Palestinian Anger in Jerusalem and West Bank Gets a Violent Soundtrack, 22 October 2015, available from http://www.nytimes.com/2015/10/23/world/middleeast/palestinians-israel-stabbings-shootings.html

Israeli Ministry of Foreign Affairs, between September 2014 and 16 December 2015, 26 rockets had landed in Israel.[69] Rockets have been consistently fired and tested, with varying degree of intensity, since the Mission's recommendation.

60. With regard to measures intended to prevent harm to Palestinian civilians, during the summer of 2014, on three occasions, weapons components were placed in three vacant UNRWA schools in Gaza, in breach of the inviolability of United Nations premises.[70] Furthermore, some of these weapons used by Palestinian armed groups do not discriminate between civilian objects and military objectives and are therefore contrary to international humanitarian law.

61. The High Commissioner urges Palestinian armed groups to respect international humanitarian law obligations, including by renouncing attacks on Israeli civilians and civilian objects and take all feasible precautionary measures to avoid harm to civilians during hostilities, with a view to ensuring the most adequate and effective implementation of recommendations of the Mission and Commission.

G. The State of Palestine, Palestinian authorities and the authorities in Gaza

62. Paragraph 1974 (a) of the Mission's report (A/HRC/12/48) recommended that the Palestinian Authority issue clear instructions to security forces under its command to abide by human rights norms as enshrined in the Palestinian Basic Law and international instruments, ensure prompt and independent investigations of all allegations of serious human rights violations by security forces under its control, and end the resort to military justice to deal with cases involving civilians.

63. The High Commissioner notes that in early 2010, the Palestinian Authority established a four-member Independent Investigation Commission by Presidential Decree to follow up on the implementation of the Mission's recommendations (A/HRC/15/50, para. 65). The Independent Investigation Commission presented its report in August 2010.[71] Subsequently, the Council of Ministers of the Palestinian Authority established a Ministerial Committee, which proposed short-term and long-term strategies, including regarding to the application of military jurisdiction to civilians[72] and the adoption of the Palestinian criminal code.[73] However, the High Commissioner is concerned that some of the violations committed during the 2009 conflict were repeated during the 2014 conflict.

64. Paragraph 682 (a) of the Commission's report called upon the State of Palestine to ensure that investigations into violations of international humanitarian law and international human rights law, including international crimes, by the Palestinian Authority, the

[69] Israeli Ministry of Foreign Affairs, Rocket fire from Gaza and Palestinian ceasefire violations after Operation Cast Lead (Jan 2009), 16 December 2015.

[70] Based on UNRWA's inputs.

[71] As reported by the Committee of Independent experts (A/HRC/16/24, paragraph 49), the Palestinian Independent Investigation Commission could not effectively investigate rockets attacks from Gaza due to lack of access to evidence in Israel.

[72] On 17 January 2011, the Palestinian Authority reportedly announced that military courts would no longer try civilians. See Al-Haq, "Palestinian General Intelligence: civilians will be no longer tried in military courts", 17 January 2011. Available from www.alhaq.org/etemplate.php?id=566

[73] For more information see, Report of the Committee of independent experts in international humanitarian and human rights law established pursuant to Council resolution 13/9, A/HRC/16/24, paragraphs 51 and 52. The adoption of the Palestinian Criminal Code is still pending.

authorities in Gaza and Palestinian armed groups, where substantiated, comply with international human rights standards, and that full accountability is achieved, including through criminal proceedings.

65. On 25 August 2015, the Palestinian Council of Ministers adopted Decision No. 05/65/17/M.O/R.H establishing an Independent National Commission to monitor the implementation of the recommendations of the report of the UN Commission of Inquiry of 2014 addressed to Palestinian authorities. On 6 January 2016, the "investigation" committee sent a letter to OHCHR-OPT and many other Civil Society Organisations in West Bank and Gaza in order to brief them on its establishment and goals. According to the letter, the committee was formed to investigate alleged violations in both West Bank and Gaza strip. The Independent National Commission is required to present its report to the Palestinian President and Cabinet in due course. The High Commissioner calls on the Government of the State of Palestine to expedite the implementation of the recommendation of the UN Commission of Inquiry of 2014. The High Commissioner is concerned about the lack of progress in ensuring accountability.

66. In its report A/70/421 (paragraph 62), the Secretary-General notes that the Gaza Ministry of Interior reportedly established an investigation into the circumstances of the summary executions of alleged collaborators in Gaza during the 2014 hostilities. In January 2015, a Ministry spokesperson said that the executions were carried out by Palestinian resistance factions. With respect to the detainees, he denied official involvement in the executions claiming that they had escaped from prison and were captured and executed by armed groups close to the fence after they engaged in hostilities. A Hamas statement on 27 May 2015 similarly denied any role in the executions and claimed that the Attorney-General's Office and the Ministry of Interior were continuing with the investigation and would publish the findings upon completion. The High Commissioner has no further updates on this matter. The High Commissioner expresses concerns about the lack of information and at the failure to ensure accountability.

67. Palestinian human rights organizations have referred two cases to the Attorney-General in Gaza of attacks of civilians by armed groups during the summer 2014 hostilities. In one case, the alleged victim sustained serious injuries resulting in the amputation of his legs. The Attorney-General had not responded to the complaints by the end of the reporting period, but had reportedly referred them to the Internal Security Agency.

68. Paragraph 1874 (b) the Mission's report (A/HRC/12/48) recommended that the Palestinian Authority and the Gaza authorities release without delay all political detainees in their power and refrain from further arrests on political grounds and in violation of international human rights law.

69. The High Commissioner reports that arbitrary detention based on political grounds has continued in the Occupied Palestinian Territory. Palestinian detainees are held without formal charges and denied proper procedures for detention. Detainees are often deprived of visits by their families or lawyers. Such practice affects Hamas affiliates in the West Bank and Fatah affiliates in the Gaza Strip.[74] A peak in arbitrary arrests by the Palestinian security forces in the West Bank, resulting in the detention of some 120 people, including some allegedly affiliated to Hamas, was registered by Al-Haq, in July 2015.[75] In September

[74] The Independent Commission for Human Rights, The Status of Human Rights in Palestine, Twentieth Annual Report, 14 May 2015, page 17.

[75] Al-Haq, Al-Haq Demands a Stop to the Campaign of Arrests and Warns Against a Continuing Deterioration of Rights and Freedoms, 06 July 2015; Al Jazeera, Hamas members arrested in West Bank crackdown, 04 July 2015.

2015, media reports stated that 40 people affiliated to Fatah had been arrested in Gaza.[76] The High Commissioner urges the Palestinian Authority and the authorities in Gaza to promptly release all political detainees and refrain from any such arrests.

70. Paragraph 1974 (c) of the Mission's report (A/HRC/12/48) recommended that the Palestinian Authority and the Gaza authorities continue to enable the free and independent operation of Palestinian NGOs, including human rights organizations, and of the Palestinian Independent Commission for Human Rights.

71. The High Commissioner notes that the repression of freedom of expression and attacks on civil society organizations have continued in the Occupied Palestinian Territory. In the first half of 2015, the Palestinian Centre for Development & Media Freedoms (MADA) recorded a 103 per cent increase in violations against journalists and media freedoms by Palestinian authorities. 65 incidents were reported in the West Bank and 45 in Gaza.[77] The High Commissioner also notes with concern the role of the NGO Affairs Committee, established in December 2012 by Presidential decree, and of a special committee set up in August 2014, under the Palestinian Authority Financial and Administrative Control Administration, to monitor and regulate the activities of civil society organizations and the compliance of their internal by-laws with the Palestinian Law on Charitable Societies.[78]

72. In paragraph 683 (b) of its report, the Commission also recommended that the authorities in Gaza and Palestinian armed groups take measures to prevent extrajudicial executions and eradicate torture, cruel, inhuman and degrading treatment; to cooperate with national investigations aimed to bring those responsible for violations of international law to justice; and to combat the stigma faced by families of alleged collaborators. The Palestinian Independent Commission for Human Rights, in its 2014 Annual Report, stated that it had received 1,274 complaints of alleged violations of the right to physical safety (287 complaints referred to cases in the West Bank and 996 to cases in the Gaza Strip)[79].

73. In paragraph 682 (b) of its report, the Commission called upon the State of Palestine to accelerate efforts to translate the declaration on Palestinian unity into tangible measures on grounds that would enable the Government of National Consensus to ensure the protection of human rights and achieve accountability for victims. The High Commissioner notes that the National Action Plan for Human Rights, drafted with the assistance of OHCHR, was approved by the Minister of Justice and the Minister of Planning. Its recommendations were incorporated into the final version of the Palestinian national development plan for 2014–16 despite the lack of political progress in achieving full political reconciliation since the establishment of the Government of National Consensus in June 2014. The High Commissioner also notes the reported progress of the Government, working with technical assistance and advice from OHCHR and various United Nations entities, in implementing its obligations under the seven international human rights treaties to protect and promote human rights in Palestine, starting with the drafting of a set of baseline reports for submission to the treaty bodies.

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[76] Middle East Monitor, Fatah accuses Hamas of arresting its members in Gaza, 9 September 2015.

[77] Palestinian Center for Development & Media Freedoms (MADA), Media freedoms Violations in Palestine Semi-annual report 2015;

[78] High Representative of the European Union for Foreign Affairs and Security Policy, Implementation of the European Neighbourhood Policy in Palestine Progress in 2014 and recommendations for actions, 25 March 2015, page 5; Al-Haq, Unconstitutional Presidential Decrees Seek to Control Civil Society Organisations, 18 February 2013.

[79] The Independent Commission for Human Rights, The Status of Human Rights in Palestine, Twentieth Annual Report, 2014, page 17.

H. International community

74. The Mission recommended that the States parties to the Geneva Conventions relating to the protection of victims of international armed conflicts start criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions of 1949, and where so warranted following investigations, alleged perpetrators should be arrested and prosecuted in accordance with internationally recognized standards of justice (A/HRC/12/48, para 1975 (a)).

75. The High Commissioner notes that, in addition to cases mentioned in Secretary-General's report (A/HRC/15/51, paragraph 62), two separate cases were filed in the United Kingdom against Tzipi Livni[80] and Ehud Barak in 2009.[81] In October 2015, media reported on a case filed in the United States of America against Ehud Barak in relation to the incident of the Gaza Flotilla of 31 May 2010.[82] In relation to the same incident, in November 2015 a Spanish judge asked to be notified of the presence within its jurisdiction of seven Israeli officials.[83]

76. In paragraph 1975 (b) of its report (A/HRC/12/48), the Mission recommended that international aid providers should step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population. According to the report of the Secretary-General on assistance to the Palestinian people (A/70/76–E/2015/57, paragraph 70), between May 2014 and March 2015, UNRWA supported individual psychosocial counselling for 18,292 Palestinian refugees in Gaza and 10,806 group counselling sessions. The Gaza Child Protection Working Group provides that 194,736 children and 60,461 adults with psychosocial distress and mental disorders were reached through structured psychosocial group activities and 29,128 children and 2,362 adults reached through individual counseling.

77. In paragraph 1975 (c) of its report (A/HRC/12/48), the Mission recommended that donor countries and assistance providers continue to support the work of Palestinian and Israeli human rights organizations. According to its submission to OHCHR for the purpose of this report, the European Union continued to support the work of human rights organisations through the European Instrument for Democracy and Human Rights. According to the NGO Development Centre, in 2014, their programmes on human rights and good governance funded by foreign donors provided Palestinian human rights organizations with over 760,000 USD.[84]

78. In paragraph 1975 (d) of its report (A/HRC/12/48), the Mission recommended that States involved in peace negotiations between Israel and representatives of the Palestinian people, especially the Quartet, ensure that respect for the rule of law, international law and human rights assumes a central role in internationally sponsored peace initiatives. In its

[80] BBC, Israel fury at UK attempt to arrest Tzipi Livni, 15 December 2009.

[81] The Guardian, Israeli minister Ehud Barak faces war crimes arrest threat during UK visit, 29 September 2009.

[82] The Guardian, Former Israeli prime minister sued in US for raid on Gaza flotilla, 21 October 2015, available from http://www.theguardian.com/world/2015/oct/21/former-israeli-prime-minister-sued-in-us-for-raid-on-gaza-flotilla

[83] The Independent, Spain 'issues arrest warrant' for Israeli PM Benjamin Netanyahu over 2010 Gaza flotilla attack, 18 November 2015, available from http://www.independent.co.uk/news/world/europe/spain-issues-arrest-warrant-for-israeli-prime-minister-benjamin-netanyahu-over-2010-gaza-flotilla-a6736436.html

[84] NGO Development Center, Annual Report 2014, page 29, available from http://www.ndc.ps/sites/default/files/NDC-AR2014-web-English.pdf

submission to OHCHR, the European Union reported that in its Foreign Affairs Council of July 2015, it reiterated that it considered compliance with international humanitarian and human rights law as a cornerstone for peace and security in the region. On 27 September 2013, the Quartet discussed the humanitarian needs of Gaza residents and emphasized the importance of increased access into Gaza through legal crossings. The High Commissioner encourages Sates to redouble their efforts to ensure that respect for the rule of law, international law and human rights are central in peace initiatives.

79. Paragraph 1975 (b) of the Mission's report (A/HRC/12/48) recommended that, in view of the allegations and reports about long-term environmental damage that may have been created by certain munitions or debris from munitions, a programme of environmental monitoring be implemented under the auspices of the United Nations, for as long as deemed necessary, and that the environmental monitoring programme should be in accordance with the recommendations of an independent body, and samples and analyses should be analyzed by one or more independent expert institutions.

80. The High Commissioner notes that in follow-up to the its study "*Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008 – January 2009*", UNEP highlighted the grave conditions of the sewage system and the need for desalination plants. According to information submitted to OHCHR by the UNCT, a programme of environmental monitoring has not taken place due to Israel's denying access to UNEP experts who were to investigate the pollution and other environmental aspects in Gaza. Moreover, the entry of metal detection machines purchased by UNDP to ensure the quality of the rubble before crushing it for reuse was delayed for nearly a year. UNEP confirmed[85] that the ongoing North Gaza Emergency Sewage Treatment Project funded by the World Bank was addressing the dire water and sanitation conditions in Gaza.[86] UNDP has also been involved in environmental activities in Gaza, including on debris and UXOs removal, and in a heavy metal survey for the coastal aquifer in cooperation with the Palestinian Water Authority and Coastal Municipal Water Unit.[87]

81. The High Commissioner urges Israel to fully cooperate with UNEP experts, including by providing them full access to assess environmental damage and removing all obstacles in transporting required machines into Gaza.

82. In paragraph 684 of its report, the Commission called upon the international community (a) to promote compliance with human rights obligations, and to respect and ensure respect for, international humanitarian law in the Occupied Palestinian Territory and Israel, in accordance with Article 1 common to the Geneva Conventions; (b) to use its influence to prevent and end violations, and to refrain from encouraging violations by other parties. As mentioned above the European Union Council of Foreign Ministers has taken some initiative in this regard.[88] States have made statements with regard to specific incidents, for example, in October 2015 the United States publicly expressed their concerns

[85] UNEP communication to OHCHR.

[86] World Bank, Northern Gaza Emergency Sewage Treatment (NGEST) Project (P074595), Implementation Status & Results Report, available from http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/MNA/2015/06/22/090224b082f772cd/1_0/Rendered/PDF/West0Bank0and00Report000Sequence024.pdf

[87] UNCT inputs to OHCHR.

[88] Supra, paragraph 78-79.

about the excessive use of force by Israel in response to Palestinian attacks against civilians.[89]

83. In paragraph 684 (c) of its report, the Commission called upon the international community to accelerate and intensify efforts to develop legal and policy standards that would limit the use of explosive weapons with wide-range effects in populated areas with a view to strengthening the protection of civilians during hostilities.

84. The issue has been discussed in a number of international expert level meetings. In September 2015, Austria and OCHA hosted a meeting in Vienna to highlight the humanitarian impact of the use of explosive weapons in populated areas and to begin discussions on political approaches to the matter[90]. The participating governments indicated support for developing a political commitment on this issue. Some 50 States and intergovernmental institutions[91] publicly acknowledged the harm caused by explosive weapons in populated areas in public statements, including during Security Council and General Assembly sessions.[92] As reported in the submission presented by the European Union to OHCHR, the European Union Action Plan on Enhancing the Security of Explosives contains prevention, detection and response measures, as well as the development of information-sharing and research mechanisms. The European Union has also adopted extensive legislation regarding the civil use of explosives.

85. In paragraph 684 (d) of its report, the Commission called upon the international community to actively support the work of the International Criminal Court in relation to the Occupied Palestinian Territory; to exercise universal jurisdiction to try international crimes in national courts; and to comply with the extradition requests pertaining to suspects of such crimes to countries where they would face a trial. The High Commissioner notes that while it is early stages of the proceeding before the International Criminal Court and information on prosecutions by national courts under the principle of universal jurisdiction are scarce, the international community should do everything possible to implement the recommendation fully.

I. International community and responsible Palestinian authorities.

86. In paragraph 1976 (a) of its report (A/HRC/29/CRP.4), the Mission recommended that the international community and responsible Palestinian authorities establish appropriate mechanisms to ensure that the funds pledged by international donors for reconstruction activities in the Gaza Strip were smoothly and effectively disbursed, and urgently put to use for the benefit of the population of Gaza.

87. The UN Country Team reported that in September 2015, it established the UN Gaza Reconstruction and Recovery Coordination Group[93], tasked with (a) the coordinating and

[89] The Washington Post, Obama administration accuses Israel of terrorism, 'excessive force', 15 October 2015, available from http://www.washingtontimes.com/news/2015/oct/15/obama-admin-accuses-israel-terrorism-excessive-for/

[90] International Network on Explosive Weapons, States support the development of a political commitment on explosive weapons, 28 September 2015; see also Reaching Critical Will (RCW), Ending the use of explosive weapons in populated areas, available from http://www.reachingcriticalwill.org/news/latest-news/10180-ending-the-use-of-explosive-weapons-in-populated-areas

[91] International Network on Explosive Weapons, Acknowledging the Harm, available from http://www.inew.org/acknowledgements

[92] International Network on Explosive Weapons, News, available from http://www.inew.org/news

[93] The UN Recovery and Reconstruction Group is led by UNRWA, with UNDP as Vice-Chair.

tracking the progress of the Gaza reconstruction and recovery effort and (b) supporting the Prime Minister's Office and the Government-led National Office for Gaza Reconstruction (NORG) in its recovery and reconstruction coordination function. The Secretary-General regretted that the disbursement of funds pledged at the donor conference in Cairo in 2014 has been low (A/70/76, paragraph 16). In January 2015, the Government of Spain disbursed 1 million Euros to UNRWA to support the reconstruction and provision of essential services. According to the World Bank, as of 31 August 2015, only 35 per cent of the support pledged at the Cairo conference has been disbursed.[94] The High Commissioner reiterates the considerations expressed by the UN Secretary-General at the donor conference of 2014 where he expressed concerns at the regrettable cycle of building and destroying in Gaza, and stated that the successful reconstruction requires not only financial support but a strong political foundation.[95]

88. In paragraph 1976 (b) of its report (A/HRC/29/CRP.4), the Mission recommended that in view of the consequences of the military operations, responsible Palestinian authorities and international aid providers should pay special attention to the needs of people with disabilities and patients who had suffered amputations or been otherwise injured by munitions. The Mission also recommended that financial and technical assistance should be provided to ensure adequate medical follow-up to Palestinian patients.

89. On 3 May 2014, the State of Palestine became a State Party to the Convention on the Rights of Persons with Disabilities and, with support from OHCHR and other United Nations agencies, the Government is undertaking its baseline needs assessment for implementation in the form of its initial report for submission to the treaty body in Geneva. The Secretary-General (A/70/76, paragraph 54) noted that five United Nations agencies continued to implement a joint programme to strengthen respect for the human rights of people with disabilities and mainstream such rights in schools and employment services. However, the situation of the health sector remains one of grave concern. According to its input to OHCHR, the Government of Bahrain, in cooperation with Islamic Relief Worldwide, supported projects to build and fit prosthetics for 1,200 disabled people in the Gaza Strip, who were also rehabilitated and trained to work and ensure an income to their families. In April 2015, the Palestinian Ministry of Health faced a debt of over 250 million USD, which has prevented the purchased of essential equipment that is not available in Gaza, such as orthopaedic and plastics equipment to conduct secondary reconstructive surgery.

J. International community, Israel and Palestinian authorities

90. In paragraph 1977 (a) of its report (A/HRC/12/48), the Mission recommended that Israel and representatives of the Palestinian people, and international actors involved in the peace process, engage Israeli and Palestinian civil society in devising sustainable peace agreements based on respect for international law. It noted that the participation of women should be ensured, in accordance with Security Council resolution 1325 (2000). On 18 June 2015, as part of its work on enhancing Palestinian women's leadership and participation in decision-making processes, the Central Election Commission and UN Women signed an

[94] The World Bank, Reconstructing Gaza - Donor Pledges, 29 September 2015, http://www.worldbank.org/en/programs/rebuilding-gaza-donor-pledges

[95] Secretary-General, Statements, 14 October 2014, http://www.un.org/sg/statements/index.asp?nid=8099

agreement for a two-year joint project to empower women in local communities.[96] UN-Women also continued to support the Palestinian Independent Commission for Human Rights in monitoring women's access to justice in the Occupied Palestinian Territory (A/70/76, paragraph 89). The High Commissioner notes that in December 2015, a conference that offers a platform for civil society engagement with regards to the peace process was organised by the Geneva Initiative at the Israeli Knesset. On 14 December 2014, the Israeli Government announced the establishment of an inter-ministerial team to form and consolidate a national action plan for implementing Security-Council resolution 1325.[97]

91. In Paragraph 1977 (b), the Mission recommended that attention be given to the position of women and steps be taken to ensure their access to compensation, legal assistance and economic security. The State of Palestine acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 3 May 2014, and is currently undertaking, with support of OHCHR, UN Women and other United Nations agencies, its baseline needs assessment for implementation in the form of its initial report to the CEDAW Committee in Geneva. UN Women is implementing a range of programmes aimed at improving Palestinian women's social and economic situation.[98] As reported by the Secretary-General, UN Women continued to support the Palestinian Independent Commission for Human Rights in monitoring women's access to justice in the Occupied Palestinian Territory (A/70/76, paragraph 89).

K. Secretary-General

92. Paragraph 1978 of the Mission's report (A/HRC/12/48) recommended that "the Secretary General develop a policy to integrate human rights into peace initiatives in which the United Nations is involved, especially the Quartet (paragraph 1978). It also requested the United Nations High Commissioner for Human Rights to provide expertise required to implement this recommendation".

93. This recommendation has been implemented in an ongoing manner as the Secretary-General consistently endeavours to integrate human rights into peace initiatives involving the United Nations, including the Quartet[99]. However, at the time of drafting of this report, peace negotiations between Israel and the State of Palestine were stalled.

L. Office of the United Nations High Commissioner for Human Rights

94. Paragraph 1979 (a) of the Mission's report (A/HRC/12/48) recommended that OHCHR monitor the situation of people who have cooperated with the United Nations Fact-Finding Mission on the Gaza Conflict and periodically update the Human Rights Council through its public reports and in other ways as it may deem appropriate". This recommendation has been implemented through OHCHR presence in OPT and its staff's regular interaction with individuals who cooperated with the Mission. As part of its

[96] UN Women, the Central Election Commission and UN Women sign an agreement to enhance women's political participation, 18 June 2015, available from http://palestine.unwomen.org/en/news-and-events/stories/2015/06/cec-agreement#sthash.j7uMILgS.dpuf

[97] http://www.pmo.gov.il/secretary/GovDecisions/2014/Pages/des2331.aspx

[98] UN Women, Programmes, http://palestine.unwomen.org/en/what-we-do/economic-empowerment/programmes.

[99] For an assessment by the Secretary-General of the importance of human rights in the peace process, see A/HRC/28/45.

monitoring mandate, OHCHR continues to document human rights violations in the OPT, including reprisals against human rights defenders.

95. The Mission also recommended that OHCHR give attention to its recommendations in its periodic reporting on the Occupied Palestinian Territory to the Human Rights Council (paragraph 1979(B)). The most recent OHCHR report on the matter was presented at the twenty-eighth session of the Council (A/HRC/28/80 and A/HRC/28/80.Add1) and does reflect the situation in relation to some of the recommendations made by the Mission.

M. Conclusion

96. The High Commissioner notes that while progress has been made on implementing some recommendations, a number of recommendations are yet to be fully implemented. On a range of issues, the situation continues to deteriorate and certain measures adopted only increase violations of human rights and humanitarian law. Piecemeal measures adopted on paper are not sufficient, but a holistic approach in implementing recommendations should be taken, bearing in mind that the effects of such changes should be reflected in improvements on the human rights situation of the people.

97. In light of the above, the High Commissioner urges all parties concerned to urgently implement all recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict and of the United Nations Fact-Finding Mission on the Gaza Conflict.

98. The High Commissioner stresses the urgency of implementation of recommendations, particularly on accountability and the review of policies governing military operations, law enforcement activities in the context of occupation and respect international humanitarian and human rights laws in general, by all parties to the conflict. The High Commissioner underscores that the international community should continue to focus on issues related to the Occupied Palestinian Territory, and implement recommendations addressed to it.

99. The High Commissioner believes that such implementation would significantly improve the human rights situation in the Occupied Palestinian Territory and Israel.